

LABOUR DEPARTMENT

The 7th July, 1978

No. 11(112)-3Lab-78/ 6209.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Haryana Polymers Corporation, Plot No. 40, Sector 4, Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER. INDUSTRIAL
TRIBUNAL, HARYANA, FARIDA-
BAD

Reference No. 43 of 1977
between

SHRI BACHCHI RAM WORKMAN AND
THE MANAGEMENT OF M/S HAR-
YANA POLYMERS CORPORATION,
PLOT NO. 40, SECTOR-4, FARIDABAD.

Present:

Shri Ram Murti Sharma, for the
workman.

Nemo, for the management.

AWARD

By order No. ID/FA/2070-A-77/19778, dated 19th May, 1977, the Governor of Haryana referred the following dispute between the management of M/s Haryana Polymers Corporation, Plot No. 40, Sector 4, Faridabad, and its workman Shri Bachchi Ram to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Bachchi Ram was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were served on the parties. The parties appeared and filed their pleadings. The workman filed his claim statement

and the case was fixed for filing written statement by the management but on the date fixed the management did not appear, nor any of their representative appeared. Hence the management was proceeded against exparte, and the case was fixed for exparte evidence of the workman. Thereafter the management moved for setting aside exparte proceedings against them which were set aside subject to payment of costs. Cost was paid and was accepted by the representative for the workman. Thereafter, the management obtained three adjournments for filing written statement but did not file. Lastly opportunity of filing written statement was granted to the management subject to payment of cost of Rs. 50 only and the case was fixed for filing written statement by them on 4th May, 1978. On 4th May, 1978 the management again did not appear, although the case was called thrice and it was 11.40 a.m. The management was again proceeded against exparte and the case was fixed for exparte evidence of the workman on 3rd June, 1978. On 3rd June, 1978, the workman examined himself as his own witness who stated that he was appointed on 18th February, 1974 at a monthly wage of Rs 300 as machine operator and the management terminated his services on 27th May, 1975, without any notice or charge-sheet. The question of domestic enquiry did not arise. His work was satisfactory and he was still not employed anywhere although he tried his best to get a job. The workman then closed his case. I am satisfied with the statement of the workman, although exparte, that he was an employee of the management and the management terminated his services unjustifiably. I, therefore, answer the reference and give my award that the termination of services of the workman concerned Shri Bachchi Ram was neither justified nor in order. He is entitled to reinstatement with continuity of service and with full back wages, at the rate he was drawing at the time of termination of his services. Dated the 6th June, 1978.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 490, dated the 7th June, 1978

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 7th June, 1978.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11((112)—3Lab-78/6210.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s India Castings, Plot No. 295, Sector 24, Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 187 of 1976

Between

SHRI RAM PHER WORKMAN AND
THE MANAGEMENT OF M/S INDIA
CASTINGS, PLOT NO. 295, SECTOR-24,
FARIDABAD.

Present:—Shri Ram Murti Sharma, for
the workman.

Shri R. C. Sharma, for the
management.

AWARD

By order No. ID/FD/1026-A-76/32619 dated 1st September, 1976, the Governor of Haryana referred to following dispute between the management of M/s India Castings, Plot No. 295, Sector 24, Faridabad and its workman Shri Ram Pher, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Ram Pher was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed on 25th January, 1977:—

(1) Whether the termination of services of Shri Ram Pher was justified and in order? If not, to what relief is he entitled?

(2) Whether the workman has been gainfully employed elsewhere?

The case was fixed for the evidence of the management. The management examined one Shri K. L. Kathuria, Proprietor of the factory as M. W. 1 who proved letter of appointment Ex. M-1. He stated that the workman had proceeded on leave vide Ex. M-2 and that he had passed an order that the leave shall not be extended, half portion of the leave application was given to the workman which was the order portion and that when the workman did not turn up after the expiry of leave, they wrote Ex. M-3 to the workman which was sent by U.P.C. Ex. M-4 and when the workman returned, they issued Ex. M-5 to him and its copy was sent to the Labour Inspector. The workman did not receive the original of Ex. M-5. He went away. They then displayed it on the notice board. The workman then came on 18th May, 1976 and received the original of Ex. M-6 and signed. The workman then gave to them Ex. M-7 along with Ex. M-8, and they issued the original of Ex. M-9 on the next date. He further stated that they received no letter or application or telegram during that period for extension of leave. In cross examination he stated that the leave of the workman expired on 6th May, 1976 and that there was no partner named Shri Parkash Chand as he was the sole proprietor of the management. At that time there was no person named Shri Parkash Chand although such named person was the Sales Manager on the day he made the statement before the Tribunal. He denied the suggestion put to him by the representative of the workman. Then the case was fixed for the remaining evidence of the

management. The management examined Shri Narinder Kumar clerk who brought attendance register and stated that Shri Parkash Lal Kathuria was employed on 1st August, 1976 and not earlier. In cross examination he stated that Shri P. L. Kathuria was the Chief Executive whereas Shri Krishan Lal Kathuria the brother of Shri Parkash Lal Kathuria is the owner. Shri Parkash Lal Kathuria joined at Rs. 1,050 P.M. He denied a suggestion that Shri P. L. Kathuria was working in the factory even prior to 1st August, 1976 and from the time the factory started functioning. The management closed their case.

Then the case was fixed for the evidence of the workman. The workman examined himself as his own witness, who stated that when he went to his house, the condition of his father became serious and he gave a telegram on 3rd May, 1976 for extension of leave. He proved the issuance of the telegram vide a certificate of postal authority Ex. W-4 as the receipt of the telegram had been lost. He further stated that he had prayed for extension of leave from 6th May, 1976 to 13th May, 1976 and he returned on his duty on 10th May, 1976. The management told him to sit at the gate and on 14th May, 1976, the management gave him a letter. He did not receive that letter but received it on 17th/18th May, 1976 on the persuasion of the management, copy whereof is Ex. W-1. He replied that letter vide Ex. W-2. The management turned him out of the job, vide Ex. W-3. He obtained a verification of the fact from the Pardhan of the Panchayat Ex. W-5. He produced a Photostat copy of his certificate Ex. W-6 and stated that he had given a certificate to the management. He further stated that he was not employed anywhere despite his efforts to seek one. He was cross examined by the management at length.

I have gone through the evidence of the parties, oral as well as documentary. Although the management have stated that they had told the workman concerned that his leave shall not be extended but they could not prove that order, and such an application does not matter at all. At

the time the leave is applied for, the management may have an idea that they shall not extend leave but later on when actually extension of leave is applied for on reasonable ground and the management considered those grounds, they can change their former opinion and they can extend leave. Whatever be the case. It was incumbent on the management to reply the telegram of the workman either way. They should have communicated to the workman either the extension of leave or refusal to extend leave. When they did not communicate either way, the plea of the management that they had formerly told the workman that the leave shall not be extended, is of no avail. It would be in the fitness of things to mention that even the management have withheld the telegram. They have not stated that they received the telegram, neither they stated that they replied the telegram and refused extension of leave. Rather they have stated that they did not receive any telegram. This stand of the management is quite false one, as the Post Master himself has given a certificate under the seal and under the seal of the post office that the telegram as alleged by the workman was given on 3rd May, 1976 at 9.50 A.M. and the number of telegram was A-8. The plea of the management is falsified with the certificate of the Post Master. The photostat copy of the certificate relating to telegram is on the file. Then there is a verification from the Pardhan Gram Sabha that the father of the workman was ill. There is a photostat copy of the medical certificate of the father of the workman.

From the evidence, I am satisfied that the workman applied for extension of leave vide telegram and the management did not reply that telegram either way and thereby the workman could rightly think and he thought that his leave had been extended by the management, as the management did not convey to the workman their refusal to extend leave. Withholding of telegram by the management goes against them. It is further proved that the workman went to the factory of the management within a period or just immediate after the period upto which he had applied for

extension of leave, all the documents proved that. The management was not justified in turning the workman out of job and terminating his services when they did not communicate to the workman their refusal of extension of leave. With holding of the telegram of the workman and denial of receiving it by the management is fatal to the plea of the management. I, therefore, decide issue No. 1 against the management.

Issue No. 2.

There is no evidence on the file that the workman has been gainfully employed elsewhere. I, therefore, decide issue No. 2 against the management.

As per result of my findings on the issues, I answer the reference and give my award that the termination of services of the workman concerned Shri Ram Pher was neither justified nor in order. He is entitled to reinstatement with continuity of service and with full back wages, at the rate he was drawing at the time of termination of his services.

Dated the 6th June, 1978.

NATHU RAM SHARMA
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 491, dated the 7th June, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947

The 7th June, 1978.

NATHU RAM SHARMA
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)-3Lab-78/6213.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award

of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Sanjay Textiles, Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA,
FARIDABAD.

Reference No. 64 of 1975

between

THE WORKMEN AND THE MANAGEMENT OF M/S SANJAY TEXTILES,
FARIDABAD

Present:

Shri Jawahar Lal, for Shri Ram
Murti Sharma, for the workmen.

Shri R. C. Sharma, for the management.

AWARD

By order No. ID/FD/75/15855, dated 14th March, 1975, the Governor of Haryana referred to the following dispute between the management of M/s Sanjay Textiles, Faridabad and its workmen to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

- (1) Whether the workmen are entitled to the grant of dearness allowance? If so, with what details?
- (2) Whether the grades and scale of pay of workers should be fixed? If so, with what details?
- (3) Whether the workmen are entitled to bonus at a rate higher than 8.33 per cent of the wages for the year 1973-74? If so, with what details?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings.

On the pleadings of the parties, the following issues were framed on 22nd January, 1976:—

- (1) Whether the demand leading to this reference has been as-poused by a substantial number of workmen?
- (2) Whether the demand relating to dispute No. 1 in respect of grant of dearness allowance to the workman is barred on principle of res judicata?
- (3) Whether the workman are entitled to the grant of dearness allowance? If so, with what details?
- (4) Whether the grades and scales of pay of workers should be fixed? If so, with what details?
- (5) Whether the workmen are entitled to bonus at a rate higher than 8.33 per cent of the wages for the year 1973-74? If so, with what details?

The case was fixed for the evidence of the workmen and issues Nos. 1 and 2 were treated preliminary. The workmen examined Shri Nazir Mohd., President of Textiles Mazdoor Union as W.W 1 who deposed in favour of disposal that they held a meeting in which demands were passed but he had not brought any union record. Therefore, his cross-examination was deferred. Thereafter the representative for the workman obtained about 10/11 adjournments covering a period of about one year but never the evidence of the workman was present. The representative for the workmen obtained adjournment on one or the other reasons, although the case got about three years old. Sometimes the representative for the workmen went out and sometimes on another reasons, case was adjourned for the evidence of the workmen. Finally on 31st May, 1978 neither the workman appeared nor their representative appeared. One Shri Jawahar Lal appeared for the representative for the workman but he had no letter of authority from the workman. The history of the case shows that the

workman never pursued this case with interest, as a result whereof the case lingered on for three years, even the workman could not close their case on preliminary issues after the lapse of three years. On 31st May, 1978, there was no ground to further adjourn the case. The circumstances warranted dismissal and default. I, therefore, decide issue No. 1 against the workman.

ISSUE NO. 2

The onus of issue No. 2 was on the management. They had not yet begin their case as the workman could not close their case on preliminary issues. As a result of my findings on issue No. 1 in absence of evidence, I answer the reference and give my award that the workmen are not entitled to any of the demands raised by them.

- (1) The workmen are not entitled to the grant of D.A. No. details are necessary.
- (2) There is no case for fixation of grades and scales of pay of the workers.
- (3) The workmen are not entitled to bonus at a rate higher than 8.33 per cent of the wages for the year 1973-74. No details are necessary.

Dated the 6th June, 1978.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 495, dated the 7th June, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes, Act, 1947.

Dated the 7th June, 1978.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.